

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

ALBERT L. GRAY, ADMINISTRATOR,
et al.,

Plaintiffs,

vs.

C.A. No. 04-CV-312

JEFFREY DERDERIAN, et al.,

Defendants.

ESTATE OF JUDE B. HENAULT, et al.,

Plaintiffs,

vs.

C.A. No. 03-483L

AMERICAN FOAM CORPORATION, et al.,

Defendants.

**RULE 12(B)(6) MOTION TO DISMISS KOLASA PLAINTIFF'S
FIRST AMENDED MASTER COMPLAINT BY LEGGETT
& PLATT, INCORPORATED AND L&P FINANCIAL SERVICES CO.**

Without waiving any of its defenses with respect to service of process¹ and in accordance with the Court's December 17, 2004 Order and the Court's instructions given at the hearing on Plaintiffs' Motion to Amend on December 16, 2004, Leggett & Platt, Incorporated and L&P Financial Services Co. (collectively "L&P") hereby move the Court to dismiss the claims made against L&P in Kolasa Plaintiff's First Amended Master Complaint pursuant to Fed.

¹ Although L&P's counsel received a copy by regular mail of a Notice of Adoption of First Amended Master Complaint in Kolasa v. Derderian, et al. (C.A. 05-070L), L&P has never been served with process. To the extent L&P is presently before this Court in this matter, L&P submits this motion to dismiss.

382

R. Civ. P. 12(b)(6). Plaintiff's allegations, which may be accepted as true solely for purposes of this motion, establish L&P is entitled to dismissal.

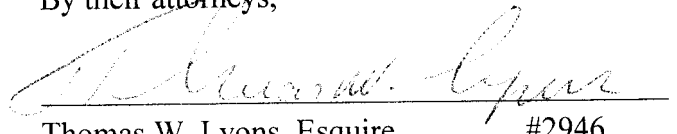
In support of its motion, L&P incorporates herein by reference its Supplemental Memorandum in Support of Rule 12(b)(6) Motion to Dismiss Plaintiffs' First Amended Master Complaint, previously filed in the above-captioned Gray matter. L&P further incorporates herein by reference its Motion to Dismiss the Master Complaint, the accompanying Memorandum in Support of its Motion to Dismiss the Master Complaint, and its Reply Memorandum in Support of its Motion to Dismiss the Master Complaint, all previously filed in Gray.

WHEREFORE, for the foregoing reasons and for those reasons set forth in the accompanying and incorporated filings, Leggett & Platt, Incorporated and L&P Financial Services Co. respectfully request this Court grant their Motion to Dismiss and dismiss with prejudice all claims made against them in Plaintiffs' First Amended Master Complaint and for such further relief as this Court deems just and proper.

DEFENDANTS

LEGGETT & PLATT INCORPORATED and
L&P FINANCIAL SERVICES CO.

By their attorneys,



Thomas W. Lyons, Esquire

#2946

STRAUSS, FACTOR, LAING & LYONS

222 Richmond Street, Suite 208

Providence, RI 02903-2914

401-456-0700

tlyons@straussfactor.com

George E. Wolf, III, Esq.

George E. Wolf, III, Esq.

Shook, Hardy & Bacon, LLP

One Kansas City Place

1200 Main Street

Kansas City, MO 64105-2118

Tel.: 816-474-6550

Fax: 816-421-5774

CERTIFICATION

I hereby certify that on this 14th day of March, 2005, a copy of the within was sent to all counsel of record by email.

Christine Abbeames